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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,398	11/14/2000	Scott C. Harris	BIODONGLE/SCH	8991
23844	7590	09/26/2005	EXAMINER	
SCOTT C HARRIS P O BOX 927649 SAN DIEGO, CA 92192			ART UNIT	PAPER NUMBER

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/712,398

Applicant(s)

HARRIS, SCOTT C.

Examiner

Tony Mahmoudi

Art Unit

2165

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 11 July 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH** or **THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.


JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER

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Continuation of 10. Other (including any explanation in support of the above items):

Upon review of the Appellant's Brief, filed on 11-July-2005, the following issues need to be corrected:

- a. In the Status of Claims section, the appellant states, "Claims 3-14 are pending. All of the pending claims are appealed." Based on the examiner's Final Rejection (mailed on 20-September-2004), claims 3-14 and 21 were indicated as pending claims.
- b. In the Status of Amendments section, the appellant states, "An amendment after final was filed on November 15, 2004. An advisory action indicated that this amendment would be entered." However, item number 7 of the examiner's Advisory Action (mailed on 25-January-2005), clearly indicated that the After-Final amendment would not be entered, and the status of claims indicated that claims 3-14 and 21 remained rejected.
- c. The Appendix of claims does not contain claim 21, which is still pending in the application as per the Final Rejection Office Action (mailed on 20-September-2004), and the Advisory Action (mailed on 25-January-2005.) The Appendix of claims should be revised to include claim 21 as per Appellant's statement that "All of the pending claims are appealed" in the Status of Claims section of the Appellant's Brief.